

**House File 262 - Introduced**

HOUSE FILE 262

BY HELLAND

**A BILL FOR**

1 An Act concerning mechanics' liens including the establishment  
2 of a state construction registry for residential  
3 construction property and including effective date  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 207.23, subsection 1, Code 2011, is  
2 amended to read as follows:

3 1. Within six months after the completion of a project to  
4 restore, reclaim, abate, control, or prevent adverse effects  
5 of past coal mining practices on privately owned land, the  
6 division shall itemize the money expended on the project and  
7 may file a lien statement ~~in the manner provided in section~~  
8 ~~572.8~~ in the office of the district court clerk of each county  
9 in which a portion of the property affected by the project is  
10 located, together with a notarized appraisal by an independent  
11 appraiser of the value of the land before the restoration,  
12 reclamation, abatement, control, or prevention of adverse  
13 effects of past mining practices if the money so expended  
14 results in a significant increase in property value. A copy  
15 of the lien statement and the appraisal, if required, shall be  
16 served upon affected property owners in the manner provided  
17 for service of an original notice. The lien shall not exceed  
18 the amount determined by the appraiser to be the increase in  
19 the market value of the land as a result of the restoration,  
20 reclamation, abatement, control, or prevention of adverse  
21 effects of past coal mining practices. A lien shall not be  
22 filed in accordance with this subsection against the property  
23 of a person who owned the surface prior to May 2, 1977, and who  
24 neither consented to, participated in, nor exercised control  
25 over the mining operation which necessitated the reclamation  
26 performed.

27 Sec. 2. Section 572.1, Code 2011, is amended to read as  
28 follows:

29 **572.1 Definitions and rules of construction.**

30 For the purpose of this chapter:

31 1. "Administrator" means the secretary of state.

32 ~~1.~~ 2. "Building" shall be construed as if followed by the  
33 words "erection, or other improvement upon land".

34 3. "General contractor" includes every person who does work  
35 or furnishes materials by contract, express or implied, with an

1 owner. "General contractor" does not include a person who does  
2 work or furnishes materials on contract with an owner-builder.

3 ~~2.~~ 4. "Labor" means labor completed by the claimant.

4 ~~3.~~ 5. "Material" shall, in addition to its ordinary  
5 meaning, include includes machinery, tools, fixtures, trees,  
6 evergreens, vines, plants, shrubs, tubers, bulbs, hedges,  
7 bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire,  
8 fence material, fence posts, tile, and the use of forms,  
9 accessories, and equipment furnished by the claimant.

10 ~~4.~~ 6. "Owner" means the record legal or equitable  
11 titleholder and every person for whose use or benefit any  
12 building, erection, or other improvement is made, having the  
13 capacity to contract, including guardians or record.

14 ~~5.~~ "Owner-occupied dwelling" means the homestead of an  
15 owner, as defined in section 561.1, and without respect to the  
16 value limitations in section 561.3, and actually occupied by  
17 the owner or the spouse of the owner, or both. "Owner-occupied  
18 dwelling" includes a newly constructed dwelling to be occupied  
19 by the owner as a homestead, or a dwelling that is under  
20 construction and being built by or for an owner who will occupy  
21 the dwelling as a homestead.

22 7. "Owner-builder" means the legal or equitable titleholder  
23 of record who furnishes material for or performs labor upon a  
24 building, erection, or other improvement, or who contracts with  
25 a subcontractor to furnish material for or perform labor upon  
26 a building, erection, or other improvement and who offers or  
27 intends to offer to sell the owner-builder's property without  
28 occupying or using the structures, properties, developments,  
29 or improvements for a period of more than one year from the  
30 date the structure, property, development, or improvement is  
31 substantially completed or abandoned.

32 8. "Residential construction" means construction on  
33 single-family or two-family dwellings occupied or used, or  
34 intended to be occupied or used, primarily for residential  
35 purposes, and includes real property pursuant to chapter 499B.

1     9. "State construction registry" means a centralized  
2 computer database maintained and posted on the internet by  
3 the administrator that provides a central repository for the  
4 submission and management of preliminary notices, notices of  
5 commencement of work, and mechanics' liens on all residential  
6 construction properties.

7     10. "State construction registry number" means a number  
8 provided by the administrator for all residential construction  
9 properties posted to the state construction registry.

10     ~~6-~~ 11. "Subcontractor" shall include includes every person  
11 furnishing material or performing labor upon any building,  
12 erection, or other improvement, except those having contracts  
13 directly with the owner. "Subcontractor" shall include those  
14 persons having contracts directly with an owner-builder.

15     Sec. 3. Section 572.2, Code 2011, is amended to read as  
16 follows:

17     **572.2 Persons entitled to lien.**

18     1. Every person who ~~shall furnish~~ furnishes any material  
19 or labor for, or ~~perform~~ performs any labor upon, any building  
20 or land for improvement, alteration, or repair thereof,  
21 including those engaged in the construction or repair of any  
22 work of internal or external improvement, and those engaged  
23 in grading, sodding, installing nursery stock, landscaping,  
24 sidewalk building, fencing on any land or lot, by virtue of any  
25 contract with the owner, owner-builder, general contractor,  
26 or subcontractor shall have a lien upon such building or  
27 improvement, and land belonging to the owner on which the same  
28 is situated or upon the land or lot so graded, landscaped,  
29 fenced, or otherwise improved, altered, or repaired, to secure  
30 payment for the material or labor furnished or labor performed.

31     2. If material is rented by a person to the owner, general  
32 contractor, or subcontractor, the person shall have a lien  
33 upon such building, improvement, or land to secure payment for  
34 the material rental. The lien is for the reasonable rental  
35 value during the period of actual use of the material and any

1 reasonable periods of nonuse of the material taken into account  
2 in the rental agreement. The delivery of material to such  
3 building, improvement, or land, whether or not delivery is made  
4 by the person, creates a presumption that the material was  
5 used in the course of alteration, construction, or repair of  
6 the building, improvement, or land. However, this presumption  
7 shall not pertain to recoveries sought under a surety bond.

8 3. An owner-builder is not entitled to a lien under  
9 this chapter as to work the owner-builder performs, or is  
10 contractually obligated to perform, prior to transferring title  
11 to the buyer.

12 Sec. 4. Section 572.8, Code 2011, is amended to read as  
13 follows:

14 **572.8 Perfection of lien.**

15 1. A person shall perfect a mechanic's lien by ~~filing with~~  
16 ~~the clerk of the district court of the county in which the~~  
17 ~~building, land, or improvement to be charged with the lien is~~  
18 ~~situated~~ posting to the state construction registry internet  
19 website or submitting to the administrator by United States  
20 mail or facsimile transmission a verified statement of account  
21 of the demand due the person, after allowing all credits,  
22 setting forth:

23 a. The date when such material was first furnished or labor  
24 first performed, and the date on which the last of the material  
25 was furnished or the last of the labor was performed.

26 b. The legal description of the property to be charged with  
27 the lien.

28 c. The name and last known mailing address of the owner of  
29 the property.

30 d. The address of the property or a description of the  
31 location of the property.

32 2. Upon ~~the filing~~ perfection of the lien, the ~~clerk of~~  
33 ~~court~~ administrator shall mail a copy of the lien to the  
34 owner. If the statement of the lien consists of more than one  
35 page, the ~~clerk~~ administrator may omit such pages as consist

1 solely of an accounting of the material furnished or labor  
2 performed. In this case, the ~~clerk~~ administrator shall attach  
3 a notification that pages of accounting were omitted and may  
4 be inspected ~~in the clerk's office~~ on the state construction  
5 registry internet website.

6 Sec. 5. Section 572.9, Code 2011, is amended to read as  
7 follows:

8 **572.9 Time of filing perfection.**

9 The statement of account required by section 572.8 shall  
10 be ~~filed~~ perfected by a ~~principal~~ general contractor or  
11 subcontractor within two years and ninety days after the date  
12 on which the last of the material was furnished or the last of  
13 the labor was performed.

14 Sec. 6. Section 572.10, Code 2011, is amended to read as  
15 follows:

16 **572.10 Perfecting lien after lapse of ninety days.**

17 A general contractor or a subcontractor may perfect a  
18 mechanic's lien pursuant to section 572.8 beyond ninety days  
19 after the date on which the last of the material was furnished  
20 or the last of the labor was performed by filing a claim with  
21 the clerk of the district court and giving written notice  
22 thereof to the owner. Such notice may be served by any person  
23 in the manner original notices are required to be served.  
24 If the party to be served is out of the county wherein the  
25 property is situated, a return of that fact by the person  
26 charged with making such service shall constitute sufficient  
27 service from and after the time it was ~~filed with the clerk of~~  
28 ~~the district court~~ perfected pursuant to section 572.8.

29 Sec. 7. Section 572.11, Code 2011, is amended to read as  
30 follows:

31 **572.11 Extent of lien filed perfected after ninety days.**

32 Liens perfected under section 572.10 shall be enforced  
33 against the property or upon the bond, if given, by the owner  
34 or owner-builder, only to the extent of the balance due from  
35 the owner to the general contractor or owner-builder at the

1 time of the service of such notice; but if the bond was given by  
2 the general contractor or owner-builder, or person contracting  
3 with the subcontractor filing the claim for a lien, such bond  
4 shall be enforced to the full extent of the amount found due  
5 the subcontractor.

6 Sec. 8. Section 572.13, Code 2011, is amended by striking  
7 the section and inserting in lieu thereof the following:

8 **572.13 General contractor — owner notice — residential**  
9 **construction.**

10 1. A general contractor who has contracted or will contract  
11 with a subcontractor to provide labor or furnish material for  
12 the property shall provide the owner with the following owner  
13 notice in writing in boldface type of a minimum size of ten  
14 points:

15 "Persons or companies furnishing labor or materials for  
16 the improvement of real property may enforce a lien upon the  
17 improved property if they are not paid for their contributions,  
18 even if the parties have no direct contractual relationship  
19 with the owner. The state construction registry provides  
20 a listing of all persons or companies furnishing labor or  
21 materials who have filed a lien or who may file a lien upon the  
22 improved property. If the person or company has posted its  
23 notice or lien to the state construction registry, you may be  
24 required to pay the person or company even if you have paid the  
25 general contractor the full amount due. Therefore, check the  
26 state construction registry internet website for information  
27 about the property including persons or companies furnishing  
28 labor or materials before paying your general contractor. In  
29 addition, when making payment to your general contractor, it is  
30 important to obtain lien waivers from your general contractor  
31 and from persons or companies furnishing labor or materials  
32 to your property. The information in the state construction  
33 registry is posted on the internet website of the state  
34 construction registry."

35 2. The notice described in subsection 1 shall also contain

1 the internet website address and toll-free telephone number of  
2 the state construction registry.

3 3. A general contractor who fails to provide notice pursuant  
4 to this section is not entitled to a lien and remedy provided  
5 by this chapter.

6 4. This section applies only to residential construction  
7 properties.

8 Sec. 9. NEW SECTION. 572.13A Notice of commencement of work  
9 — general contractor — owner-builder.

10 1. A general contractor or owner-builder shall submit a  
11 notice of commencement of work to the administrator or post  
12 a notice of commencement of work to the state construction  
13 registry internet website within ten days of commencement of  
14 work on the property. A notice of commencement of work is  
15 effective only as to any labor, service, equipment, or material  
16 furnished to the property subsequent to the posting of the  
17 notice of commencement of work. A notice of commencement of  
18 work shall include all of the following information:

19 a. The name and address of the property owner.

20 b. The name and address of the general contractor or  
21 owner-builder.

22 c. The address of the property if the property can be  
23 reasonably identified by an address or the name and a general  
24 description of the location of the property if the property  
25 cannot be reasonably identified by an address.

26 d. A legal description of the property.

27 e. The date work commenced.

28 f. Any other information prescribed by the administrator  
29 pursuant to rule.

30 2. If a general contractor or owner-builder fails to submit  
31 a notice of commencement of work to the administrator or  
32 fails to post the required notice of commencement of work to  
33 the state construction registry internet website pursuant to  
34 subsection 1, within ten days of commencement of the work on  
35 the property, a subcontractor may submit or post the notice in

1 conjunction with the filing of the required preliminary notice  
2 pursuant to section 572.13B.

3 3. At the time a notice of commencement of work is posted  
4 on the state construction registry internet website, the  
5 administrator shall send a copy of the owner notice described  
6 in section 572.13 along with other relevant information to the  
7 owner and to the property address, addressed to "owner", as  
8 prescribed by the administrator pursuant to rule.

9 4. A general contractor who fails to provide notice pursuant  
10 to this section is not entitled to a lien and remedy provided  
11 by this chapter.

12 5. This section applies only to residential construction  
13 properties.

14 Sec. 10. NEW SECTION. 572.13B Preliminary notice —  
15 subcontractor — residential construction.

16 1. A subcontractor shall submit a preliminary notice to  
17 the administrator or post a preliminary notice to the state  
18 construction registry internet website. A preliminary notice  
19 posted prior to the balance paid to the general contractor  
20 or owner-builder by the owner is effective as to all labor,  
21 service, equipment, and material furnished to the property by  
22 the subcontractor. The preliminary notice shall contain all  
23 of the following information:

24 a. The name of the owner.

25 b. The state construction registry number.

26 c. The name, address, and telephone number of the  
27 subcontractor furnishing the labor, service, equipment, or  
28 material.

29 d. The name and address of the person who contracted  
30 with the claimant for the furnishing of the labor, service,  
31 equipment, or material.

32 e. The name of the general contractor or owner-builder under  
33 which the claimant is performing or will perform the work.

34 f. The address of the property or a description of the  
35 location of the property.

1 g. Any other information required by the administrator  
2 pursuant to rule.

3 2. A mechanic's lien perfected under this chapter  
4 is enforceable only to the extent of the balance due the  
5 general contractor or owner-builder prior to the posting of a  
6 preliminary notice specified in subsection 1.

7 3. At the time a preliminary notice is posted to the  
8 state construction registry, the administrator shall send  
9 notification to the owner as prescribed by the administrator  
10 pursuant to rule, including the owner notice described in  
11 section 572.13, subsection 1. Notices under this section will  
12 not be sent to owner-builders.

13 4. A subcontractor who fails to submit or post a preliminary  
14 notice pursuant to this section shall not be entitled to a lien  
15 and remedy provided under this chapter.

16 5. This section applies only to residential construction  
17 properties.

18 Sec. 11. Section 572.14, Code 2011, is amended by striking  
19 the section and inserting in lieu thereof the following:

20 **572.14 Liability to subcontractor after payment to general**  
21 **contractor or owner-builder.**

22 Except as provided in section 572.13B, payment to the  
23 general contractor or owner-builder by the owner of any part or  
24 all of the contract price of the building or improvement within  
25 ninety days after the date on which the last of the materials  
26 was furnished or the last of the labor was performed by a  
27 subcontractor, does not relieve the owner from liability to the  
28 subcontractor for the full value of any material furnished or  
29 labor performed upon the building, land, or improvement if the  
30 subcontractor perfects a lien within ninety days after the date  
31 on which the last of the materials was furnished or the last of  
32 the labor was performed.

33 Sec. 12. Section 572.15, Code 2011, is amended to read as  
34 follows:

35 **572.15 Discharge of ~~subcontractor's~~ mechanic's lien — bond.**

1 A mechanic's lien may be discharged at any time by ~~the owner,~~  
 2 ~~principal contractor, or intermediate subcontractor filing with~~  
 3 ~~the clerk of the district court of the county in which the~~  
 4 ~~property is located~~ submitting a bond to the administrator in  
 5 twice the amount of the sum for which the claim for the lien  
 6 is filed, with surety or sureties, to be approved by the ~~clerk~~  
 7 administrator, conditioned for the payment of any sum for which  
 8 the claimant may obtain judgment upon the claim.

9 Sec. 13. Section 572.16, Code 2011, is amended to read as  
 10 follows:

11 **572.16 Rule of construction.**

12 Nothing in this chapter shall be construed to require the  
 13 owner to pay a greater amount or at an earlier date than is  
 14 provided in the owner's contract with the ~~principal~~ general  
 15 contractor, unless ~~said~~ the owner pays a part or all of the  
 16 contract price to the ~~original~~ general contractor before the  
 17 expiration of the ninety days allowed by law for the ~~filing~~  
 18 perfection of a mechanic's lien by a subcontractor; provided  
 19 that in the case of ~~an owner-occupied dwelling~~ residential  
 20 construction, nothing in this chapter shall be construed to  
 21 require the owner to pay a greater amount or at an earlier date  
 22 than is provided in the owner's contract with the ~~principal~~  
 23 general contractor, unless the owner pays a part or all  
 24 of the contract price to the ~~principal~~ general contractor  
 25 after ~~receipt of notice under section 572.14, subsection 2 a~~  
 26 preliminary notice has been posted to the state construction  
 27 registry internet website pursuant to section 572.13B.

28 Sec. 14. Section 572.17, Code 2011, is amended to read as  
 29 follows:

30 **572.17 Priority of mechanics' liens between mechanics.**

31 Mechanics' liens shall have priority over each other in the  
 32 order of the ~~filing~~ submission of the statements ~~or~~ of accounts  
 33 as ~~herein~~ provided in section 572.8.

34 Sec. 15. Section 572.18, subsections 1 and 3, Code 2011, are  
 35 amended to read as follows:

1 1. Mechanics' liens ~~filed~~ perfected by a ~~principal~~ general  
2 contractor or subcontractor within ninety days after the date  
3 on which the last of the material was furnished or the last  
4 of the claimant's labor was performed and for which notices  
5 were properly submitted or posted to the state construction  
6 registry internet website pursuant to sections 572.13A and  
7 572.13B shall be superior to all other liens which may attach  
8 to or upon a building or improvement and to the land upon which  
9 it is situated, except liens of record prior to the time of the  
10 original commencement of the claimant's work or the claimant's  
11 improvements, except as provided in subsection 2.

12 3. The rights of purchasers, encumbrancers, and other  
13 persons who acquire interests in good faith, for a valuable  
14 consideration, and without notice of a lien perfected pursuant  
15 to this chapter, are superior to the claims of all general  
16 contractors or subcontractors who have perfected their liens  
17 more than ninety days after the date on which the last of the  
18 claimant's material was furnished or the last of the claimant's  
19 labor was performed.

20 Sec. 16. Section 572.22, Code 2011, is amended to read as  
21 follows:

22 **572.22 Record of claim.**

23 ~~The clerk of the court~~ administrator shall endorse upon  
24 every claim for a mechanic's lien ~~filed in the clerk's office~~  
25 posted to the state construction registry internet website or  
26 submitted to the administrator through United States mail the  
27 date and hour of filing ~~and make an abstract thereof in the~~  
28 ~~mechanic's lien book kept for that purpose. Said book~~ Each  
29 claim shall be properly indexed and shall contain the following  
30 items ~~concerning each claim:~~

- 31 1. The name of the person by whom filed.
- 32 2. The date and hour of filing.
- 33 3. The amount thereof.
- 34 4. The name of the person against whom filed.
- 35 5. The legal description of the property to be charged

1 ~~therewith.~~

2 6. The tax parcel identification number of the property to  
3 be charged.

4 Sec. 17. Section 572.23, Code 2011, is amended to read as  
5 follows:

6 **572.23 Acknowledgment of satisfaction of claim.**

7 1. When a mechanic's lien is satisfied by payment of the  
8 claim, the claimant shall acknowledge satisfaction thereof ~~upon~~  
9 ~~the mechanic's lien book, or otherwise in writing,~~ and, if the  
10 claimant neglects to do so for thirty days after demand in  
11 writing is personally served upon the claimant, the claimant  
12 shall forfeit and pay twenty-five dollars to the owner ~~or,~~  
13 general contractor, or owner-builder and be liable to any  
14 person injured to the extent of the injury.

15 2. If ~~acknowledgment of satisfaction is not filed~~  
16 acknowledged within thirty days after service of the demand in  
17 writing, the party serving the demand or causing the demand to  
18 be served may file for record with the ~~clerk of the district~~  
19 ~~court~~ administrator a copy of the demand with proofs of service  
20 attached and endorsed and, in case of service by publication,  
21 a personal affidavit that personal service could not be made  
22 within this state. Upon completion of the requirements of this  
23 subsection, the record shall be constructive notice to all  
24 parties of the due forfeiture and cancellation of the lien.  
25 Upon the filing of the demand with the required attachments,  
26 the ~~clerk of the district court~~ administrator shall mail a  
27 file-stamped copy of the demand to both parties.

28 Sec. 18. Section 572.30, Code 2011, is amended to read as  
29 follows:

30 **572.30 Action by subcontractor or owner against general**  
31 **contractor or owner-builder.**

32 Unless otherwise agreed, a ~~principal~~ general contractor  
33 or owner-builder who engages a subcontractor to supply  
34 labor or materials or both for improvements, alterations or  
35 repairs to a specific ~~owner-occupied dwelling~~ residential

1 construction property shall pay the subcontractor in full for  
2 all labor and materials supplied within thirty days after  
3 the date the ~~principal~~ general contractor or owner-builder  
4 receives full payment from the owner. If a ~~principal~~ general  
5 contractor or owner-builder fails without due cause to pay a  
6 subcontractor as required by this section, the subcontractor,  
7 or the owner by subrogation, may commence an action against  
8 the general contractor or owner-builder to recover the amount  
9 due. Prior to commencing an action to recover the amount  
10 due, a subcontractor, or the owner by subrogation, shall give  
11 notice of nonpayment of the cost of labor or materials to  
12 the ~~principal~~ general contractor or owner-builder paid for  
13 the improvement. Notice of nonpayment must be in writing,  
14 delivered in a reasonable manner, and in terms that reasonably  
15 identify the real estate improved and the nonpayment complained  
16 of. In an action to recover the amount due a subcontractor,  
17 or the owner by subrogation, under this section, the court  
18 in addition to actual damages, shall award a successful  
19 plaintiff exemplary damages against the general contractor  
20 or owner-builder in an amount not less than one percent  
21 and not exceeding fifteen percent of the amount due the  
22 subcontractor, or the owner by subrogation, for the labor and  
23 materials supplied, unless the ~~principal~~ general contractor or  
24 owner-builder does one or both of the following, in which case  
25 no exemplary damages shall be awarded:

26 1. Establishes that all proceeds received from the person  
27 making the payment have been applied to the cost of labor or  
28 material furnished for the improvement.

29 2. Within fifteen days after receiving notice of nonpayment  
30 the ~~principal~~ general contractor or owner-builder gives a  
31 bond or makes a deposit with the ~~clerk of the district court~~  
32 administrator, in an amount not less than the amount necessary  
33 to satisfy the nonpayment for which notice has been given  
34 under this section, and in a form approved by a judge of the  
35 district court, to hold harmless the owner or person having

1 the improvement made from any claim for payment of anyone  
2 furnishing labor or material for the improvement, other than  
3 the ~~principal~~ general contractor or owner-builder.

4 Sec. 19. Section 572.31, Code 2011, is amended to read as  
5 follows:

6 **572.31 Cooperative and condominium housing.**

7 A lien arising under this chapter as a result of the  
8 construction of an apartment house or apartment building which  
9 is owned on a cooperative basis under chapter 499A, or which is  
10 submitted to a horizontal property regime under chapter 499B,  
11 is not enforceable, notwithstanding any contrary provision  
12 of this chapter, as against the interests of an owner in an  
13 ~~owner-occupied dwelling~~ a unit contained in the apartment  
14 house or apartment building acquired in good faith and for  
15 valuable consideration, unless a lien statement specifically  
16 describing the ~~dwelling~~ unit is filed under section 572.8  
17 within the applicable time period specified in section 572.9,  
18 but determined from the date on which the last of the material  
19 was supplied or the last of the labor was performed in the  
20 construction of that ~~dwelling~~ unit.

21 Sec. 20. Section 572.32, Code 2011, is amended to read as  
22 follows:

23 **572.32 Attorney fees — remedies.**

24 1. In a court action to enforce a mechanic's lien, ~~if~~  
25 ~~the plaintiff furnished labor or materials directly to the~~  
26 ~~defendant~~, a prevailing plaintiff may be awarded reasonable  
27 attorney fees.

28 2. In a court action to challenge a mechanic's lien filed on  
29 ~~an owner-occupied dwelling~~ a residential construction property,  
30 if the person challenging the lien prevails, the court may  
31 award reasonable attorney fees and actual damages. If the  
32 court determines that the mechanic's lien was filed in bad  
33 faith or the supporting affidavit was materially false, the  
34 court shall award the owner reasonable attorney fees plus an  
35 amount not less than five hundred dollars or the amount of the

1 lien, whichever is less.

2 Sec. 21. Section 572.33, Code 2011, is amended to read as  
3 follows:

4 **572.33 Requirement of notification for commercial**  
5 **construction.**

6 1. The notification requirements in this section apply only  
7 to commercial construction.

8 ~~1.~~ 2. A person furnishing labor or materials to a  
9 subcontractor shall not be entitled to a lien under this  
10 chapter unless the person furnishing labor or materials does  
11 all of the following:

12 a. Notifies the ~~principal~~ general contractor or  
13 owner-builder in writing with a one-time notice containing  
14 the name, mailing address, and telephone number of the  
15 person furnishing the labor or materials, and the name of the  
16 subcontractor to whom the labor or materials were furnished,  
17 within thirty days of first furnishing labor or materials for  
18 which a lien claim may be made. Additional labor or materials  
19 furnished by the same person to the same subcontractor for  
20 use in the same construction project shall be covered by this  
21 notice.

22 b. Supports the lien claim with a certified statement that  
23 the ~~principal~~ general contractor or owner-builder was notified  
24 in writing with a one-time notice containing the name, mailing  
25 address, and telephone number of the person furnishing the  
26 labor or materials, and the name of the subcontractor to whom  
27 the labor or materials were furnished, within thirty days  
28 after the labor or materials were first furnished, pursuant to  
29 paragraph "a".

30 ~~2. This section shall not apply to a mechanic's lien on~~  
31 ~~single-family or two-family dwellings occupied or used or~~  
32 ~~intended to be occupied or used for residential purposes.~~

33 3. Notwithstanding other provisions of this chapter, a  
34 ~~principal~~ general contractor or owner-builder shall not be  
35 prohibited from requesting information from a subcontractor

1 or a person furnishing labor or materials to a subcontractor  
2 regarding payments made or payments to be made to a person  
3 furnishing labor or materials to a subcontractor.

4 Sec. 22. NEW SECTION. 572.33A **Liability of owner to general**  
5 **contractor — commercial construction.**

6 An owner of a building, land, or improvement upon which  
7 a mechanic's lien of a subcontractor may be filed, is not  
8 required to pay the general contractor for compensation for  
9 work done or material furnished for the building, land, or  
10 improvement until the expiration of ninety days after the  
11 completion of the building or improvement unless the general  
12 contractor furnishes to the owner one of the following:

13 1. Receipts and waivers of claims for mechanics' liens,  
14 signed by all persons who furnished material or performed labor  
15 for the building, land, or improvement.

16 2. A good and sufficient bond to be approved by the owner,  
17 conditioned that the owner shall be held harmless from any  
18 loss which the owner may sustain by reason of the filing of  
19 mechanics' liens by subcontractors.

20 Sec. 23. NEW SECTION. 572.34 **State construction registry**  
21 **— residential construction.**

22 1. A state construction registry is created and shall be  
23 administered by the administrator. The administrator shall  
24 adopt rules pursuant to chapter 17A for the creation and  
25 administration of the registry.

26 2. The state construction registry shall be accessible  
27 to the general public through the administrator's internet  
28 website.

29 3. The registry shall be indexed by owner name, general  
30 contractor name, state construction registry number, property  
31 address, legal description, tax parcel identification number,  
32 and any other identifier considered appropriate as determined  
33 by the administrator.

34 4. A general contractor, owner-builder, or subcontractor  
35 who posts fictitious, forged, or false information to the

1 state construction registry shall be subject to a penalty as  
2 determined by the administrator by rule in addition to all  
3 other penalties and remedies available under applicable law.

4 5. A person may post a correction statement with respect to  
5 a record indexed in the state construction registry internet  
6 website if the person believes the record is inaccurate or  
7 wrongfully posted.

8 6. The administrator shall charge and collect fees as  
9 established by rule necessary for the administration and  
10 maintenance of the registry and the registry's internet  
11 website. The administrator shall not charge a filing fee for  
12 a preliminary notice required pursuant to this chapter that  
13 exceeds the cost of sending such notice by certified mail with  
14 restricted delivery and return receipt. The administrator  
15 shall not charge a filing fee for a mechanics' lien that  
16 exceeds forty dollars.

17 7. Notices may be posted to the state construction registry  
18 electronically on the administrator's internet website, or may  
19 be sent to the administrator by United States mail or facsimile  
20 transmission.

21 8. The administrator shall send a receipt acknowledging  
22 a notice submitted by United States mail or facsimile  
23 transmission, as provided by the administrator by rule.

24 9. Information collected by and furnished to the  
25 administrator in conjunction with the submission and posting  
26 of notices pursuant to sections 572.13A and 572.13B shall be  
27 used by the administrator solely for the purposes of the state  
28 construction registry.

29 Sec. 24. Section 602.8102, subsection 82, Code 2011, is  
30 amended to read as follows:

31 82. Carry out duties relating to liens as provided in  
32 chapters 249A, ~~572~~, 574, 580, 582, and 584.

33 Sec. 25. EFFECTIVE DATE. This Act takes effect January 1,  
34 2013.

35

EXPLANATION

1 This bill relates to mechanics' liens including the  
2 establishment of a state construction registry for residential  
3 construction property and provides an effective date.

4 The bill changes all references to "principal contractor"  
5 and "contractor" to "general contractor", defined in the  
6 bill to mean a person who does work or furnishes materials  
7 by contract, express or implied, with an owner. "General  
8 contractor" does not include a person who does work or  
9 furnishes materials on contract with an owner-builder.

10 The bill defines "owner-builder" as the legal or equitable  
11 titleholder who furnishes material or performs labor upon a  
12 building, erection, or other improvement, or who contracts  
13 with a subcontractor to furnish material or perform labor upon  
14 a building, erection, or other improvement and who offers  
15 or intends to offer to sell the owner-builder's property  
16 without occupying or using the structures, properties,  
17 developments, or improvements for more than one year from the  
18 date the structure, property, development, or improvement  
19 is substantially completed or abandoned. The bill extends  
20 provisions currently in the Code for general contractors to  
21 owner-builders. These provisions relate to perfecting a lien,  
22 the acknowledgment of a lien that has been satisfied by payment  
23 of a claim, actions by subcontractors or owners to recover  
24 amounts due, and certain notification requirements. The bill  
25 also extends provisions for general contractors relating to  
26 notification requirements for commercial construction to  
27 owner-builders.

28 The bill provides for the perfection of a mechanic's lien  
29 by posting a verified statement of account to the state  
30 construction registry internet website or submitting to the  
31 administrator of the registry (the secretary of state), rather  
32 than by filing such statement with the district court. The  
33 bill provides that a person who intends to perfect a mechanic's  
34 lien shall include the address of the property or a description  
35 of the location of the property in the person's verified

1 statement.

2 The bill provides that a general contractor who has  
3 contracted or will contract with a subcontractor to provide  
4 labor or furnish material for the property shall provide the  
5 owner with an owner notice stating that persons or companies  
6 furnishing labor or materials for the improvement of real  
7 property may enforce a lien upon the improved property if they  
8 are not paid, even if the parties have no direct contractual  
9 relationship with the owner. The notice shall also provide  
10 information relating to the availability of information posted  
11 on the state construction registry established by the bill.  
12 A general contractor who fails to provide such notice to  
13 the owner is not entitled to a mechanic's lien and remedies  
14 pursuant to Code chapter 572.

15 The bill provides that a general contractor or owner-builder  
16 shall submit a notice of commencement of work to the  
17 administrator or post a notice of commencement of work,  
18 including certain specific information, to the state  
19 construction registry internet website.

20 The bill requires a subcontractor to submit a preliminary  
21 notice to the administrator or post a preliminary notice,  
22 including certain specific information, to the state  
23 construction registry internet website. A preliminary notice  
24 received by the administrator or posted prior to the balance  
25 paid to the general contractor or owner-builder by the owner  
26 is effective as to all labor, service, equipment, or material  
27 furnished to the property subsequent to the posting of the  
28 notice of commencement of work. A subcontractor who fails to  
29 submit or post a preliminary notice shall not be entitled to a  
30 lien and remedy provided under Code chapter 572.

31 The bill provides that the provisions relating to the  
32 requirement that a general contractor and a subcontractor  
33 post notices to the state construction registry apply only to  
34 residential construction properties.

35 The bill provides that payment to the general contractor or

1 owner-builder by the owner of any part or all of the contract  
2 price of the building or improvement within 90 days after the  
3 date on which the last of the materials was furnished or the  
4 last of the labor was performed by a subcontractor, does not  
5 relieve the owner from liability to the subcontractor for the  
6 full value of any material furnished or labor performed upon  
7 the building, land, or improvement if the subcontractor files  
8 a lien within 90 days after the date on which the last of the  
9 materials was furnished or the last of the labor was performed.

10 The bill provides for the creation of a state construction  
11 registry for residential construction property for the  
12 posting of notices by general contractors, owner-builders, and  
13 subcontractors which such persons must post in order to protect  
14 their lien rights. The state construction registry, once  
15 created, shall be a publicly accessible centralized electronic  
16 database created and maintained by the administrator. The  
17 administrator shall adopt rules pursuant to Code chapter 17A  
18 for the creation and administration of the registry. The  
19 registry provides a centralized resource of all persons or  
20 companies furnishing labor or materials who may file a lien  
21 upon the improved property. Data collected by and furnished  
22 to the administrator in conjunction with the submission and  
23 posting of notices to the state construction registry internet  
24 website shall be used by the administrator for the purposes of  
25 the registry.

26 The bill eliminates the requirement that the clerk of court  
27 make an abstract of a claim for a mechanic's lien and requires  
28 the administrator to record the date and hour of filing of a  
29 claim for a mechanic's lien and to index every claim.

30 The bill takes effect January 1, 2013.